

United States Court of Appeals for the Fifth Circuit

United States Court of Appeals
Fifth Circuit

FILED

March 22, 2022

Lyle W. Cayce
Clerk

No. 21-50467
Summary Calendar

UNITED STATES OF AMERICA,

Plaintiff—Appellee,

versus

CARLOS ALBERTO ZAMUDIO,

Defendant—Appellant.

Appeal from the United States District Court
for the Western District of Texas
USDC No. 1:18-CR-410-17

Before KING, COSTA, and HO, *Circuit Judges.*

PER CURIAM:*

Carlos Alberto Zamudio pleaded guilty of conspiring to possess with the intent to distribute cocaine. He was sentenced to twelve months and one day of imprisonment and three years of supervised release. Shortly before he

* Pursuant to 5TH CIRCUIT RULE 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIRCUIT RULE 47.5.4.

No. 21-50467

was sentenced, Zamudio filed a motion to withdraw his guilty plea. He now appeals the district court's denial of that motion.

In his motion to withdraw his guilty plea, Zamudio raised claims that implicated the knowing and voluntary nature of his guilty plea and waiver and suggested that they were the result of ineffective assistance of counsel. As such Zamudio's appeal is not barred by the waiver-of-appeal provision in his plea agreement. *See United States v. Strother*, 977 F.3d 438, 442-43 (5th Cir. 2020).

A defendant may withdraw a guilty plea after it has been accepted by the district court but before sentencing if he shows a "fair and just reason" for seeking withdrawal. *Id.* at 443. We review the district court's denial of a motion to withdraw a guilty plea for abuse of discretion. *Id.*

A review of the record, Zamudio's arguments, and the district court's consideration of the factors originally set forth in *United States v. Carr*, 740 F.2d 339, 343-44 (5th Cir. 1984), shows that the district court did not abuse its discretion in denying Zamudio's motion. *See Strother*, 977 F.3d at 443-47.

Zamudio's conviction and sentence are AFFIRMED.

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JUDGMENT

This cause was considered on the record on appeal and the briefs on file.

IT IS ORDERED and ADJUDGED that the judgment of the District Court is AFFIRMED.



Certified as a true copy and issued
as the mandate on Apr 13, 2022

Attest:

Lyle W. Cayce
Clerk, U.S. Court of Appeals, Fifth Circuit

United States Court of Appeals
FIFTH CIRCUIT
OFFICE OF THE CLERK

**LYLE W. CAYCE
CLERK**

**TEL. 504-310-7700
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April 13, 2022

Ms. Jeannette Clack
Western District of Texas, Austin
United States District Court
501 W. 5th Street
Austin, TX 78701-0000

No. 21-50467 USA v. Zamudio
USDC No. 1:18-CR-410-17

Dear Ms. Clack,

Enclosed is a copy of the judgment issued as the mandate.

Sincerely,

LYLE W. CAYCE, Clerk



By: _____
Melissa B. Courseault, Deputy Clerk
504-310-7701

cc w/encl:

Ms. Elizabeth Berenguer
Mr. Joseph H. Gay Jr.
Mr. Philip J. Lynch